Supreme Court, U.S.
FILED
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OFFICE OF THE CLERK

92-861
No. _____

IN THE SUPREME COURT OF THE UNITED STATES

October 1992 TERM

ROBIN RIDER, PETITIONER

V.

STATE OF ALABAMA, RESPONDENT

ON PETITION FOR WRIT OF CERTIORARI TO
THE SUPREME COURT OF ALABAMA

PETITION FOR A WRIT OF CERTIORARI

John E. Byrd
P. O. Box 536
Dothan, AL 36302

1 (205) 794-0759

QUESTION PRESENTED FOR REVIEW:

THE SECOND INDICTMENTS AND CONVICTIONS OF THE APPELLANT ARE VOID BECAUSE OF PREVIOUS ACQUITTAL FOR SAME OFFENSE UNDER THE DOUBLE JEOPARDY CLAUSE OF THE FIFTH AMENDMENT OF THE UNITED STATES CONSTITUTION AND SECTION NINE OF THE ALABAMA CONSTITUTION. 14

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TO THE SUPREME COURT OF THE UNITED STATES:

Comes now your Petitioner, Robin Rider, and petitions this Honorable Court for a Writ of Certiorari to issue to the Supreme Court of the State of Alabama in the above-style cause under Rule 17, *et seq.*, Rules of the Supreme Court of the United States, and shows the following:

SUMMARY OF PROCEEDINGS BELOW

1. On January 26, 1989, The Court of Criminal Appeals reversed and rendered judgment on the decision of the trial court in a memorandum ruling with opinion [4 Div. 17] and overruled the application for rehearing on March 17, 1989;

2. On May 27, 1989, the Alabama Supreme Court [88-768] in a memorandum ruling with opinion denied the State's Petition for Writ of Certiorari of the Court of Criminal Appeals January 26, 1989 decision, but in denying the Writ, the Alabama Supreme Court stated that the State was free to seek an indictment of Defendant under the

appropriate statutes, notwithstanding the reversal and rendering of his convictions by the Alabama Court of Criminal Appeals.

3. On December 12, 1990, the Defendant was convicted in the Circuit Court of Houston County [CC-89-1016] after having been again indicted by the October 1989 term of the Houston County Grand Jury;

4. On October 25, 1991, the Alabama Court of Criminal Appeals affirmed the decision of the trial court in a memorandum ruling with opinion [90-734] (attached as Appendix A) and overruled the application for rehearing on November 27, 1991;

5. On March 27, 1992, the Alabama Supreme Court [1910433] denied the Defendant's petition for Writ of Certiorari in a memorandum ruling without opinion (attached as Appendix B);

6. The Defendant maintains that the decisions of the trial court, the Court of Criminal Appeals and the Alabama Supreme Court are in conflict with the applicable decisions of the Supreme Court of the United States.

STATEMENT OF JURISDICTION

On January 27, 1989, the Alabama Court of Criminal Appeals reversed and rendered judgment on the decision of the trial court [4 Div. 17] and overruled the application for rehearing on March 17, 1989.

On May 27, 1989, the Alabama Supreme Court denied the State's petition for writ of certiorari, but in denying the writ, the Alabama Supreme Court stated that the State was free to seek an indictment of Defendant under the appropriate statues, notwithstanding the reversal and rendering of his convictions by the Alabama Court of Criminal Appeals.

On December 12, 1990, the Defendant was convicted in the Circuit Court of Houston County, (CC 89-1016) after having been again indicted by the October 1989 term of the Houston County Grand Jury.

On October 25, 1991, the Alabama Court of Criminal Appeals affirmed the decision of the trial court (90-734) and overruled the application

for rehearing on November 17, 1991.

On March 27, 1992, the Alabama Supreme Court denied the Defendant's petition for Writ of Certiorari [1910433].

This petition for Writ of Certiorari is pursuant to the Due Process clause of the Fifth Amendment to the Constitution of the United States, which reads as follows:

> No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising on land or naval forces or in the militia, when in actual service and time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb, nor shall be compelled in any criminal case to be a witness against himself, **nor be deprived of life, liberty, or property without due process of law,** nor shall private property be taken for public use, without just compensation.

STATEMENT OF FACTS MATERIAL TO THE ISSUES

The Defendant was originally indicted in June, 1987, by the Grand Jury of Houston County, Alabama, and charged with Sodomy and Sexual Abuse in the First Degree, pursuant to the Code of Alabama, 1975, §13A-6-63(a)(1) and §13A-6-66(a)(1), respectively, alleging that the Defendant committed deviant sexual intercourse and had sexual contact with the alleged victim by forcible compulsion. (R. 380-381).

The Defendant was found guilty on both charges on November 17, 1987 in the Circuit Court of Houston County, Alabama. (R. 381). The Defendant appealed the verdicts and judgments entered thereon, to the Alabama Court of Criminal Appeals, resulting in a reversal and rendering of the trial court's judgments. Rider v. State, 544 So.2d 994 (Ala.Crim.App.1989). The State's Petition for Writ of Certiorari was subsequently denied by the Alabama Supreme Court on May 26, 1989. Rider v. State, 544 So.2d 997 (Ala. 1989).

In its October 1989 term, the Houston County,

Alabama Grand Jury reindicted the Defendant for Sodomy and Sexual Abuse in the first degree pursuant to the Code of Alabama, 1975, §13A-6-63(a)(3) and §13A-6-66(a)(3) respectively, alleging that the deviant sexual intercourse and sexual contact occurred when the alleged victim was under the age of twelve years and the Defendant was over the age of sixteen years.

The Defendant thereafter filed verified pleas of Autre Fois Acquit, Pleas of Former Jeopardy and Motions to Dismiss or Quash the New Indictments under the contention that the new indictments were in violation of his double jeopardy rights under the United States and Alabama Constitutions. (R. 363-368).

The aforesaid pleas and motions were submitted to the Court for ruling or a stipulation entered into between the Defendant and the State. (R. 380-383). In addition, the parties also stipulated that the factual basis for the indictments returned by the June, 1987, Grand Jury and the factual basis for the indictment returned

by the October, 1989, Grand Jury were the same and that the acts and misconduct complained of in the former indictments would again be complained of and used as proof at the trial of the latter indictments with the exception however, that the State expected to prove the ages of the alleged victim and the Defendant at the time the alleged acts complained of occurred. The parties also stipulated that the indictments in the present case, with the exception of the proof of age, were the same as those for which the Defendant was earlier tried and acquitted in the first indictment. It was further stipulated that at the time of the original indictments, the District Attorneys Office had in its files and offense reports, information regarding the ages of both the alleged victim and the Defendant and that the Defendant could have been charged with the present pending charges in the June, 1987, indictments.

On December 12, 1990, the Defendant was subsequently convicted of both charges of Sodomy and Sexual Abuse in the First Degree,

respectively, by the Circuit Court of Houston County.

The Defendant thereafter appealed the Circuit Court's decision in a timely manner to the Court of Criminal Appeals for the State of Alabama on October 25, 1991, on which date the Court of Criminal Appeals affirmed the trial court's decision and on November 27, 1991 overruled Defendant's application for rehearing.

The Defendant petitioned the Alabama Supreme Court for a Writ of Certiorari based on the violation of Defendant's double jeopardy rights as guaranteed by the Alabama and United States Constitutions. On March 27, 1992, the Alabama Supreme Court denied Defendant's Petition for Writ of Certiorari.

Wherefore, the Defendant is now presenting this Petition for Writ of Certiorari to the Supreme Court of the United States.

REASONS FOR ALLOWING WRIT OF CERTIORARI

The record will show that the Alabama Supreme Court denied Defendant's Petition for Writ of Certiorari on the issue of double jeopardy, on direct appeal, on March 27, 1992.

Defendant was originally charged under the Code of Alabama, 1985, §13A-6-63(a)(1) and §13A-6-66(a)(1) in connection with the alleged deviant sexual contact and intercourse with the alleged victim, by forcible compulsion.

After being acquitted by the Alabama Court of Criminal Appeals, the defendant was again indicted for the same alleged crime, this time under the Code of Alabama, 1975, §13A-6-63(a)(3) and §13A-6-66(a)(3), and charged with having sexual contact with the alleged victim who was the under the age of twelve years while the Defendant was over the age of 16 years.

The Alabama Court of Criminal Appeals and the Alabama Supreme Court both denied the requested relief on the ground that the State was allowed to try the Defendant more than once for the same

alleged crime, but under different theories.

The Defendant respectfully urges that the reindictment of the Defendant for the same alleged criminal conduct is a violation of his double jeopardy rights under Amendment Five of the United States Constitution and Section Nine of the Alabama Constitution. A conviction in violation of the Defendant's double jeopardy rights cannot be left to stand.

ARGUMENT

THE SECOND INDICTMENTS AND CONVICTIONS OF THE APPELLANT ARE VOID BECAUSE OF PREVIOUS ACQUITTAL FOR SAME OFFENSE UNDER THE DOUBLE JEOPARDY CLAUSE OF THE FIFTH AMENDMENT OF THE UNITED STATES CONSTITUTION AND SECTION NINE OF THE ALABAMA CONSTITUTION.

The double jeopardy clause of the Fifth Amendment of the United States Constitution and Section Nine of the Alabama Constitution provides that no person shall be subject for the same offense to be twice put in jeopardy of life and limb. It protects against a second prosecution for the same offense after acquittal. It protects against a second prosecution for the same offense after conviction. It protects against multiple punishments for the same offense. North Carolina v. Pearce, 395 U.S. 711, 89 S.Ct. 2072 (1969).

Where a successive prosecutions are at issue, the double jeopardy guarantee serves as a constitutional policy of finality for the

Defendant's benefit and that the policy protects the accused from attempts to relitigate facts underlying a prior acquittal and from attempts to secure additional punishment after a prior conviction and sentence. Ashe v. Swinson, 397 U.S. 436, 90 S.Ct. 1189 (1970); North Carolina v. Pearce, supra.

The longstanding test for determining whether two offenses were sufficiently distinguishable to permit the imposition of cumulative punishment was stated in Blockburger v. U.S., 284 U.S. 299, 52 S.Ct. 180 (1932) in which the Court stated:

> "The applicable rule is that where the same act or transaction constitutes a violation of two distinct statutory provisions, the test to be applied to determine whether there are two offenses or only one, is whether each provision requires proof of an additional fact which the other does not."

However, Blockburger has not bee the only standard for determining whether successive prosecutions impermissably involved the same offense. Ashe v. Swinson, supra. In the cases of Brown v. Ohio, 432 U.S. 170, 97 S.Ct. 2221 (1977)

and Sanabria v. U.S., 437 U.S. 73, 98 S.Ct. 2170 (1978), The Supreme Court stated the following:

> "If two offenses are the same for the purpose of barring consecutive sentences at a single trial, they will necessarily be the same for the purpose of barring successive prosecutions."

In Brown, the Supreme Court stated that the Legislature remains free under the double jeopardy clause to define crimes and fix punishments but once the Legislature has acted, the Courts may not impose more than one punishment for the same offense and prosecutors ordinarily may not attempt to secure that punishment in more than one trial. The Court further explained that Blockburger established the tests for determining whether two offenses are sufficiently distinguishable to permit the imposition of cumulative punishment and went on to say that if two offenses where the same under this test for the purpose of barring consecutive sentences at a single trial, they would necessarily be the same for the purposes of barring successive prosecutions.

> "Where the Judge is forbidden to impose cumulative punishments for two

> crimes at the end of a single proceeding, the prosecutor is forbidden to strive for the same result in a successive proceeding."

Brown, supra.

The State of Alabama has stipulated that both the forcible compulsion and under twelve charges could have been brought against Defendant at the same time. It would have been permissible under our law that both charges could have been alleged in the 1987 indictment in the alternative or under separate counts in the indictment.

Suppose such had been the case and the Defendant had been convicted on both counts. Would the State of Alabama then argue that he could be sentenced to consecutive sentences under both counts? Of course not, because under Brown and Blockburger, the State of Alabama would be prohibited from rendering such consecutive sentences under §15-3-8 of the Code of Alabama, 1975.

Also, consider that should the Defendant have been convicted for the forcible compulsion sodomy and sexual abuse, could the State of Alabama

likewise bring additional charges against him for under twelve sodomy and sexual abuse? Again, the answer to that question would be in the negative in full view of the above stated code section and existing case law. See Ex Parte Collins, 385 So.2d 1005 (Ala. 1980); King v. State, 574 So.2d 921 (Ala.Crim.App.1990); Mayer v. State, 575 So.2d 1212 (Ala.Crim.App.1990).

Also, under Blockburger, Brown, and Santabria, supra, the Defendant could not permissibly be prosecuted under the under twelve alternatives of the two subject statutes, after being acquitted under the forcible compulsion alternative of same statutes. But to further support the Defendant's position, the Defendant can not be retried under the appropriate statutes if the United States has ruled that the double jeopardy clause bars a subsequent prosecution if, to establish an essential element of an offense charged in that prosecution, the government will prove conduct that constitutes an offense for which the Defendant has already been prosecuted.

Grady v. Corbin, 110 S.Ct. 2084 (1990).

This holding was adopted from the dictum of Illinois v. Vitale, 447 U.S. 410, 100 S.Ct. 2260 (1980) where the Supreme Court suggested that even if two successive prosecutions were not barred by the Blockburger test, the second prosecution would be barred if the prosecution sought to establish an essential element of the second crime by proving the conduct for which the Defendant was convicted or acquitted in the first prosecution.

The Court further pointed out that the Blockburger test was developed in the contest of multiple punishment imposed in a single prosecution and that the double jeopardy clause does more than prevent the sentencing court form prescribing greater punishment than the Legislature intended.

> "The Blockburger test is simply a rule of statutory construction, a guide to determining whether the Legislature intended multiple punishments."

Corbin, supra.

The Defendant was indicted in June 1987, on the charges of Sodomy and Sexual Abuse in the

First Degree.

Now, under Corbin, supra, to determine whether a subsequent prosecution is barred by the double jeopardy clause, the Blockburger test is first applied. If the subsequent prosecution survives the Blockburger test, then the Court must determine, under Corbin, if the government, to establish an essential element of the offense charged in the latter prosecution, will prove conduct that constitutes an offense for which the Defendant has already been prosecuted. The critical inquiry is what conduct the government will prove, not the evidence the government will use to prove that conduct.

In the instant case the conduct for which the Defendant was prosecuted in the former case and in the instant is deviant sexual intercourse and sexual contact with the alleged victim. In the former prosecution, the State of Alabama alleged that such conduct was accompanied with forcible compulsion. In the instant case, the same conduct, deviant sexual intercourse and sexual

contact with the alleged victim, is alleged to have occurred with a child under twelve years of age while the Appellant was over sixteen years of age. In both cases, the conduct of the Defendant, deviant sexual intercourse and sexual contact with the alleged victim, is the same. As stipulated by the State of Alabama, the acts and misconduct of the Defendant complained of in the former indictments as aforesaid shall again be complained of and shall be used as proof at the trial of this cause on the latter indictments as aforesaid. In the Defendant's first prosecution, the elements to be proved by the State of Alabama were (1) deviant sexual intercourse or sexual contact with the alleged victim and (2) forcible compulsion. The age of the victim and the age of the Defendant at the time of the alleged misconduct, is not "conduct" but is simply a circumstance or fact regarding the age of the participants at the time the alleged "conduct" occurred. The proof of the acts or conduct of deviant sexual intercourse and sexual contact with the alleged victim is the same

in both prosecutions.

Applying the above to the standard set forth in Corbin, supra, it is clear that the conduct for which the Defendant was ultimately acquitted in the former prosecutions is the same exact conduct for which he is being prosecuted and incarcerated in the instant cases, deviant sexual intercourse and sexual contact with the alleged victim. The proof of such conduct was essential in each prosecution. Without proof of the deviant sexual intercourse and the sexual contact, a conviction could not be head in either prosecution.

Consequently, applying the Corbin test to the instant case, it is apparent that the State of Alabama, in order to establish an essential element of the offenses charged in the pending prosecutions, has relied on conduct of the Defendant that constituted the offense for which he has already been prosecuted and, consequently, acquitted. To allow the conviction to stand is indirect conflict with the Fifth Amendment of the United States Constitution, Section Nine of the

Alabama Constitution and the ruling in Grady v. Corbin, supra.

Further, the Defendant would show this Honorable Court that the decision of the Alabama Courts is in conflict with existing case law of Alabama. In Sission v. State, 528 So.2d. 1159 (Ala. 1988) the Supreme Court of Alabama reversed the Alabama Court of Criminal Appeals and held that two subsections of a similar statute were merely alternative methods of proving the same crime, and therefore did not constitute separate offenses. The Court went on to state as follows:

> "If we apply the interpretation of the Court of Criminal Appeals, the State could prosecute a Defendant under §32-5A-191(a)(2) and, if the Defendant were acquitted, reprosecute that same Defendant under §32-5A-191(a)(1) under the same operative facts. Such a result obviously can not be allowed.:

Applying the foregoing reasoning in Sisson, supra, to the fact in the instant case, it is obvious that the ruling of the Alabama Court of Criminal Appeals in this cause is in direct conflict with Sisson. The Defendant was originally indicted under §13A-6-63(a)(1) and

§13A-6-66(a)(1), Alabama Code, charging him with forcible Sodomy and Sexual Abuse. Defendant was ultimately acquitted of these charges. He now stands charged with the age based alternative of the same in subsections (a)(3) which, when applied to the Sisson rationale, is not permissible. Paraphrasing the statement of the Alabama Supreme Court in Sisson, if we apply the interpretation of the Alabama Court of Criminal Appeals (in Sisson), the State could prosecute the Defendant under §13A-6-63(a)(1) and §13A-6-66(a)(1) and, if the Defendant were acquitted, reprosecute that same Appellant under §13A-6-63(a)(3) and §13A-6-66(a)(3) under the same exact operative facts. Such a result obviously could not be allowed.

Consequently, such a result could not be allowed in the instant case as the decision of the Court's of Alabama in this cause should be reversed and rendered under the authority of Sisson.

Defendant further contends that the decision of the Alabama Courts in the instant case is also

in conflict with their own rulings in the cases of King v. State, 574 So.2d 921 (Ala.Crim.App. 1990), and the case of Mayer v. State, 575 So.2d 1212 (Ala.Crim.App. 1990). Defendant submits that these cases, both decided by the Alabama Court of Criminal Appeals on September 21, 1990, clearly resolved the double jeopardy issue in the instant case in favor of the Defendant and that the Alabama Court's ruling in the instant case clearly ignores the September 21, 1990 decisions and is in direct conflict therewith.

In King, supra, the Defendant was charged with two counts of Rape in the first degree, a violation of §13A-6-63, Code of Alabama, (1975), and two counts of Sexual Abuse in the first degree, a violation of §13A-6-66, Code of Alabama, (1975). All four counts were based upon a single event wherein King allegedly had sexual intercourse with his four year old daughter. The rape charge involved two counts charging both "forcible compulsion" rape and "under twelve" rape, under the two alternatives contained in the

above referred statute and the sexual abuse charge included counts for both "forcible compulsion" and "under twelve" sexual abuse as per the alternative means of proving that crime in the above referred statute.

King was found guilty in all four counts and was sentenced to two life terms on the rapes and two twenty year terms on the sexual abuse counts. King appealed, citing as error, double jeopardy violation under the Fifth Amendment of the United States Constitution.

Relying upon Sisson, supra, the Alabama Court of Criminal Appeals ruled that the two subsections of the above referenced statutes were merely alternative methods of proving the same crime, and therefore, do not constitute separate offenses. The Court went on to rule that King could not constitutionally be convicted of the two alternatives because the double jeopardy clause protected him against multiple punishments for the same offense.

In Mayer, supra, the Defendant was indicted for three counts of Capital Murder and was ultimately convicted of three counts of the lesser included offenses of intentional murder. All three counts are contained in the same statute. The Alabama Court of Criminal Appeals stated as follows:

> "An evaluation of the case under Sisson v. State, 528 So.2d 1159 (Ala. 1988), shows that the Appellant could not have been convicted of three counts of the same statute. As this Court stated in Sisson, "the two subsections of a similar statute were merely alternative methods of proving the same crime, and therefore, did not constitute separate offenses." Sisson, 528 So.2d App. 1162. Thus Appellant's conviction of three counts of intentional murder violated the protection against double jeopardy guaranteed to him by the Constitution."

The King case and the Mayer case present the identical issue as is presented in the instant case. In the instant case the Defendant was originally indicted for Forcible Compulsion Sodomy and Sexual Abuse. The Defendant was ultimately acquitted of these charges by the Alabama Court of Criminal Appeals' reversal and rendering of his

conviction in the Circuit Court because of the State's failure to prove all the elements of the charge. As stated by the Alabama Court of Criminal Appeals in the case of Cox v. State, 585 So.2d 182 (Ala.Crim.App. 1991);

> "A Defendant is acquitted only when the ruling of the Judge, whatever its label, actually represents a resolution (in the Defendant's favor) correct or not, of some or all of the factual elements of the offense charged."

The Defendant now stands charged with "under twelve" Sodomy and Sexual Abuse which are based upon the same identical conduct as complained of in the initial prosecution.

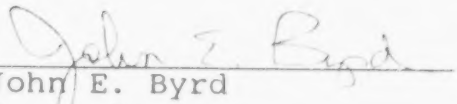
Applying the rational of King and Mayer, supra, both the former and present indictments charged the same offense, founded on the same identical conduct, which has been litigated in a prior prosecution and which has been resolved in the Defendant's favor. Since the double jeopardy clause protects against a second prosecution for the same offense after acquittal, it is clear that the subsequent prosecution was in violation of the

Defendant's double jeopardy rights and in direct conflict with the decisions of the Alabama Court of Criminal Appeals in Mayer and King, supra.

As the law stands now, under King, alternative subsections of the same statute are the same offense for multiple punishment purposes but are not the same offense for successive prosecution purposes. Of course, this is conflict with all prior rulings of the United States Supreme Court which has consistently ruled that if two offenses are the same for the purpose of barring consecutive sentences at a single trial, they will necessarily be the same for the purposes of barring successive prosecutions. Brown v. Ohio, supra.

The Defendant therefore prays that this Honorable Court will reverse the decisions of the State Courts.

Respectfully submitted,



John E. Byrd
P. O. Box 536
Dothan, AL 36302
(205) 794-0759

ATTORNEY FOR APPELLANT

CONCLUSION

WHEREFORE, premises considered, the Petitioner respectfully contends that this Court should grant his Petition for Writ of Certiorari to review the matters complained herein, and reverse and render the decision in the instant case as being inconsistent with the Constitution of the United States, the Constitution of the State of Alabama and existing rulings of this Court.

John E Byrd

John E. Byrd
P. O. Box 536
Dothan, AL 36302
(205) 794-0759

ATTORNEY FOR APPELLANT

APPENDIX A

from the

Alabama Court of Criminal Appeals

APPENDIX

Memorandum Opinion of the Alabama Court of Criminal Appeals of October 25, 1991 . 1-A

Application for rehearing overruled 4-A

Petition for Writ of Certiorari to the Supreme Court of Alabama denied on March 27, 1992 . . . . . 1-B

Court of Criminal Appeals
State of Alabama
Judicial Building, 445 Dexter Avenue
Montgomery, AL 36130

JOHN PATTERSON
Presiding Judge
JOHN C. TYSON, III
WILLIAM M. BOWEN, JR.
SAM TAYLOR
H. WARD McMILLAN
Judges

Clerk's Office
(205) 242 4590

MEMORANDUM OPINION

CR-90-734 Houston Circuit Court, CC-89-1016, 1017

Robin Rider v. State

AFFIRMED BY MEMORANDUM.

The argument of the appellant that reindictment under different sections of the sexual abuse and sodomy statutes violates his protection against double jeopardy, is without merit, because the facts and conduct in the case satisfy the requirements of Blockbruger v. United States, 284 U.S. 299 (1932) and Grady v. Corbin, 110 S.Ct. 2084 (1990), respectively. The current charges require proof of the fact of the parties' ages, while the previous charges required proof of the fact of forcible compulsion. Also, the State

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need not prove the former conduct of forcible compulsion offenses in order to prove the present age-related charges.

The argument of the appellant, that the reindictments violate his right to a speedy trial, is without merit, according to the four factors set out in Barker v. Wingo, 407 U.S. 514 (1972). Here, (1) the length of the delay from reindictment to trial was 14 months, (2) the reasons for the delay was appellate consideration of the earlier case, (3) the assertion of the speedy trial fight was directed toward a dismissal of charges rather than a prompt trial and was accompanied by motions for continuance, and (4) no particulars of alleged resultant prejudice were specified.

The argument of the appellant, that his right to due process was violated by the State's trying him initially on only one of the two applicable sections of the sexual abuse and sodomy statutes is without merit. The State's decision reasonably could be based on a decision that the stronger

case was forcible compulsion, due to the difficulty of proving the age of the victim in relation to the time of the charged offenses. No abuse of discretion was shown, see Bordenkircher v. Hayes, 434 So.3d 357 (1978).

ALL THE JUDGES CONCUR

Court of Criminal Appeals
State of Alabama
Judicial Building, 445 Dexter Avenue
Montgomery, AL 36130

JOHN PATTERSON
Presiding Judge
JOHN C. TYSON, III
WILLIAM M. BOWEN, JR.
SAM TAYLOR
H. WARD McMILLAN
Judges

Clerk's Office
(205) 242 4590

Court of Criminal Appeals No. 90-734
(Houston Circuit Court No. 89-1016;1017)

Robin Rider vs. **State of Alabama**
Appellant Appellee

Dear Sir or Madam:

You are hereby notified that on **November 27, 1991**, the following indicated action was taken in the above-styled cause by the Court of Criminal Appeals of Alabama:

Application for rehearing **overruled**. Rule 39(k) motion **denied. No opinion.**

LANE W. MANN
CLERK
COURT OF CRIMINAL APPEALS

Hon. J.R. Herring
P.O. Box 6983
Dothan, AL 36302

Filed
11/27/91

4 A

Appendix B

from the

Alabama Supreme Court

THE STATE OF ALABAMA----JUDICIAL DEPARTMENT

IN THE SUPREME COURT OF ALABAMA

Filed
03/27/92

March 27, 1992

1910433

Ex parte Robin Rider

PETITION FOR WRIT OF CERTIORARI
TO THE COURT OF CRIMINAL APPEALS

(Re: Robin Rider

v.

State)

(CA 90-734 (Houston CC-89-1016/1017))

The above cause having been duly submitted, IT IS CONSIDERED AND ORDERED that the petition for writ of certiorari is denied.

COSTS TAXED TO PETITIONER.

SHORES, J. - Hornsby, CJ., Maddox, Houston and Kennedy, JJ., concur.